

February 29, 2008

Ms. Susan Haberstroh
Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 11 DE Reg. 984 [Student Teacher Criminal Background Check Regulation]

Dear Ms. Haberstroh:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education's (DOE) proposal to amend its criminal background check regulation published as 11 DE Reg. 984 in the February 1, 2008 issue of the Register of Regulations. SCPD commented on an earlier version of the regulations in a December 17, 2007 letter. DOE has now issued a revised version of the proposed regulations to clarify the responsibility of referring institutions of higher education. SCPD endorses the regulation since it may result in protection of children from abuse, but has the following observations and concerns.

First, although the regulation requires district and charter school retention of the criminal background check information for at least 12 months (§4.1), there is no comparable direction to institutions of higher learning receiving the information consistent with §§2.1.3. to 2.1.5. The DOE may wish to provide regulatory guidance in this context.

Second, §2.1.5 indicates that the institution of higher learning makes the determination of suitability of the prospective student teacher. Section 2.1.5 also recites that a denied candidate may appeal an adverse decision consistent with standards compiled in §5.0. However, §5.0 only refers to district and charter school decision-making. There are no standards guiding an institution of higher learning on processing appeals. The DOE may wish to address this ostensible oversight.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position on the proposed regulation.

Sincerely,

Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Valerie Woodruff
Ms. Jean Allen
Ms. Martha Toomey
Ms. Paula Fontello, Esq.
Ms. Mary Cooke, Esq.
Ms Jennifer Kline, Esq.
Mr. Charlie Michels
Developmental Disabilities Council
Governor's Advisory Council for Exceptional Citizens

11reg984 doe-cbc 2-07.doc